

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF TENNESSEE
AT GREENEVILLE

UNITED STATES OF AMERICA

v.

RASHAAN P. HALL

)
)
)
)
)

No. 2:01-cr-27

MEMORANDUM AND ORDER

This criminal case is before the court on the defendant's motion asking the court to reconsider its prior order denying the defendant a reduction of his sentence pursuant to the retroactive crack cocaine guidelines (18 U.S.C. § 3582(c)(2)) [doc. 62]. In the alternative, the defendant asks that his claims be considered as claims to vacate, set aside or correct a sentence under 28 U.S.C. § 2255 based on the recent opinion in *Chambers v. United States*, 129 U.S. 687 (2009). He states that under *Chambers*, his prior escape conviction would not be a crime of violence and he would not be a career offender.

The court remains of the opinion that § 3582(c)(2) is not a vehicle for reconsideration of alleged sentencing errors and declines to reconsider its previous opinion that the retroactive crack cocaine amendments do not change the defendant's sentence.

Nevertheless, based on the defendant's statement in his motion for reconsideration that he wants his motion for a sentence reduction [doc. 58] to be considered as a § 2255 petition for purposes meeting the one year statute of limitations, the court will allow the claims to be treated as a petition for relief under § 2255. The court notes that there is no language in the *Chambers* opinion that would indicate that the holding in *Chambers* may be applied retroactively. The only cases that have applied the *Chambers* holding to escape convictions were on appeal (in the "pipeline") at the time *Chambers* was decided. See, e.g., *United States v. Ford*, 560 F.3d 420 (6th Cir. 2009).

Therefore, it is hereby **ORDERED** that the defendant's motion for reconsideration is **DENIED**, but the defendant is given leave to amend the original motion [doc. 58] to allege a cause of action under § 2255, which amendment the court will treat as filed as of October 23, 2009.

ENTER:

s/ Leon Jordan
United States District Judge